



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED] DECISION

[REDACTED] FOO/153665

PRELIMINARY RECITALS

Pursuant to a petition filed November 21, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Washington County Department of Social Services in regard to FoodShare benefits (FS), a hearing was held on January 07, 2014, at West Bend, Wisconsin.

The issue for determination is whether the agency correctly calculated the Petitioner's income in determining her eligibility for FoodShare benefits.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Julie Williamson, Economic Support Lead Worker
Washington County Department of Social Services
333 E. Washington Street
Suite 3100
West Bend, WI 53095

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Washington County.
2. On September 27, 2013, the Petitioner applied for FoodShare benefits. (Exhibit 3)
3. On October 21, 2013, the Moraine Lake Consortium (the agency) sent Petitioner a notice indicating that her application for benefits was denied, because her household income was over the eligibility limit. (Exhibit 3)
4. Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on November 21, 2013. (Exhibit 1)
5. There are five members in Petitioner's household. (Testimony of Petitioner; Testimony of [REDACTED])
6. Petitioner is considered elderly (over age 60) for FoodShare purposes. (Testimony of Petitioner; Exhibit 2, pg. 5)
7. Each of Petitioner's children receives an Adoption Assistance Payment. FB receives \$526 per month, TB receives \$598 per month and GB receives \$598 per month, for a total of \$1722 per month. (Testimony of Petitioner; Exhibit 2 pg. 9)
8. Petitioner's husband SB pays child support in the amount of \$300 per month. (Testimony of Petitioner; Exhibit 2, pg. 11)
9. Petitioner's husband has earned income of approximately \$3034.90 per month. (Testimony of Petitioner; Exhibit 2 pgs. 5 and 12-15)
10. Petitioner pays rent in the amount of \$715.00. (Testimony of Petitioner)

DISCUSSION

To receive FoodShare benefits a household must have gross income below 200% of the Federal Poverty Limit it must meet certain net income limits though the gross income test does not apply where a household has a member over age 60. *7 Code of Federal Regulations (CFR), §273.9(b); FoodShare Wisconsin Handbook (FSH), § 1.1.4.*

The Petitioner does not dispute the agency's calculation of her husband's earned income. However, the Petitioner disagrees with the agency's inclusion of her children's adoption assistance payments.

The agency must budget all income of the FS household, including all earned and unearned income. *7 CFR § 273.9(b); FSH § 4.3.1.* This includes income from a subsidized adoption payment or adoption assistance payment. *FSH §4.3.4.2 (17)* Thus, the agency correctly include the adoption assistance payments made to Petitioner's three children.

Totaling Petitioner's gross household income we have:

$$\$3034.90 \text{ earned income} + \$1722 \text{ unearned income} = \$4756.90$$

\$4756.90 is over the 200% of the FPL gross income limit of \$4596 for a family of five, but because Petitioner is over age 60, the gross income limit does not apply. *See FSH §1.1.4 and §4.2.1.1.*

“Households that include an elderly, blind or disabled member with gross income that exceeds 200% of the FPL must be tested for FS using the regular SNAP Supplemental Nutrition Assistance Program rules. Under the regular SNAP rules, these households have no gross income limit, but must have net income that does not exceed 100% FPL and countable assets that do not exceed \$3250.” *FSH § 1.1.4*

100% of FPL for a household of five is \$2298. *FSH § 8.1.1.1*

In determining a household’s net income, the following deductions are applied in determining the FoodShare allotment. (*FSH, at § 4.6*):

(1) a standard deduction –

This was \$187 per month for a household of 5 people during part of the time in question, but effective October 1, 2013, was changed to \$191 per month, 7 *CFR § 273.9(d)(1)*:

- (2) an earned income deduction - which equals 20% of the household's total earned income, 7 *CFR § 273.9(d)(2)*;
- (3) certain medical expenses – for medical expenses exceeding \$35 in a month for an elderly or disabled person, 7 *CFR § 273.9(d)(3)*;
- (4) dependent care deduction for child care expenses, 7 *CFR § 273.9(d)(4)*; and
- (5) shelter and utility expenses deduction the deduction is equal to the excess expense above 50% of net income remaining after other deductions. 7 *CFR § 273.9(d)(5)*.

During part of the time in question, the heating standard utility allowance (HSUA) was \$442, but Effective October 1, 2013, it was changed to \$450 per month.

During part of the time in question there was a cap of \$469.00 on the shelter cost deduction, *unless* a household has an elderly, blind or disabled member. Effective October 1, 2013, it was changed for \$478 per month.

FSH, §§ 4.6.7.1 and 8.1.3.

The term ‘disabled’ is a term with a definition as to the FoodShare program:

3.8.1.1 EBD Introduction

An elderly individual is a food unit member age 60 or older.

A disabled individual is a food unit member who receives disability or blindness benefits from any of these programs: [SSA](#), [MA](#), [SSI](#) or SSI related MA, Railroad Retirement Board ([RRB](#)).

FSH, §3.8.1.1.

Applying the applicable deductions to Petitioner's income we have the following net income calculation:

Gross Income	\$4756.90	Rent	\$715.00
Earned Income Deduction	-\$606.98	HSU	+\$450.00
Standard Deduction	-\$191.00	50% Net income	-\$1829.46
No Medical Expenses exceeding \$35			
Child Support Payment	-\$300.00	Excess Shelter Expense	\$0
<hr/>		<hr/>	
Net Income	\$3658.92		
Excess Shelter Expense	- \$0.00		
<hr/>			
Net Income	\$3658.92		

Petitioner's net income of \$3658.92 exceeds the 100% FPL income limit of \$2298 for a family of five. As such, Petitioner's household is not eligible for FoodShare benefits.

The Petitioner should note that if she incurs a significant amount of out-of-pocket medical expenses, (i.e. more than \$1360.92) she can reapply for FoodShare benefits and request consideration of those medical expenses as a deduction.

CONCLUSIONS OF LAW

- 1) The agency correctly included adoption assistance payments in determining Petitioner's household income.
- 2) The agency correctly denied Petitioner's application for FoodShare benefits.

THEREFORE, it is

ORDERED

That the petition is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

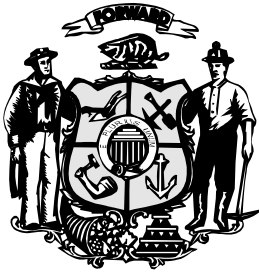
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of
Milwaukee, Wisconsin, this 13th day of
January, 2014.

\sMayumi M. Ishii
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on January 13, 2014.

Washington County Department of Social Services
Division of Health Care Access and Accountability